

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Larry LaDain Meyers, #Y296570,

Plaintiff,

v.

Major Hughes, Lieutenant Saloane &
Sgt. Richardson,

Defendants.

C/A No. 0:04-23062-GRA-BM

ORDER
(Written Opinion)

This matter is before the Court for a review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 73.02(B)(2)(d) and (e), D.S.C., and filed August 4, 2005.

Plaintiff brought this suit pursuant to 42 U.S.C. § 1983. The Defendants filed a motion for summary judgment pursuant to Fed. R Civ. P. 56 on May 17, 2005. As the Plaintiff is proceeding *pro se*, a *Roseboro* order was entered by the Court on May 18, 2005 advising Plaintiff of the importance of a motion for summary judgment and of the necessity for him to file an adequate response. Plaintiff has failed to file any response to the Defendants' motion to summary judgment. The magistrate recommends that the Defendants' motion for summary judgment be granted and that the Plaintiff's case be dismissed, without prejudice, for failure of the Plaintiff to exhaust his administrative remedies as required by 42 U.S.C. § 1997e(a).

Plaintiff is proceeding *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Haines v. Kerner*, 404 U.S. 519, 520 (1972).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983). Plaintiff has not filed objections.

After a review of the magistrate's Report and Recommendation, this Court finds that the report is based upon the proper law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that the Defendants' motion for summary judgment

be GRANTED and that the Plaintiff's case be DISMISSED, without prejudice, for failure of the Plaintiff to exhaust his administrative remedies as required by 42 U.S.C. § 1997e(a).

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

August 25, 2005

NOTICE OF RIGHT TO APPEAL

Plaintiff has the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, will waive the right to appeal.